

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**MATTHEW and WENDY
MEISENHEIMER,**

Plaintiffs,

vs.

**SAFECO INSURANCE COMPANY
OF INDIANA,**

Defendant.

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CASE NO. _____

**DEFENDANT SAFECO INSURANCE COMPANY OF INDIANA'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1446(a) and Local Rule CV-81.1, Defendant Safeco Insurance Company of Indiana (“Safeco” or “Defendant”) files this Notice of Removal, hereby removing this action from the 439th Judicial District Court of Rockwall County, Texas to the United States District Court for the Northern District of Texas, Dallas Division. Removal is based on diversity jurisdiction because there is complete diversity between Plaintiffs Matthew and Wendy Meisenheimer (“Plaintiffs”) and Safeco, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs. In support of its Notice of Removal, Defendant would respectfully show the Court as follows

**I.
INTRODUCTION**

This dispute arises out of a claim for alleged hail damage to property located at 3075 Wincrest Drive, Rockwall, Texas 75032 (the “Property”). Plaintiffs allege that Defendant breached a policy of insurance and violated certain provisions of Texas Insurance Code and Texas Deceptive Trade Practices Act (“DTPA”) by, among other things, failing to pay Plaintiffs’ claim for damages allegedly resulting from a storm.

On July 14, 2017, Plaintiffs filed their Original Petition in the 439th Judicial District Court of Rockwall County, Texas. Safeco was served with a citation and a copy of Plaintiffs' Original Petition on July 20, 2017, through its registered agent for service of process. On August 11, 2017, Safeco timely filed an answer to Plaintiffs' Original Petition. This Notice of Removal is being filed within thirty (30) days of service of the Petition on Safeco and is thus timely filed under 28 U.S.C. § 1446(b). As explained below, removal is proper because there is complete diversity of citizenship between the parties, and it is apparent from the face of Plaintiffs' Original Petition that the amount in controversy exceeds \$75,000.00.

II.

BASIS FOR REMOVAL

A. DIVERSITY OF CITIZENSHIP

Plaintiffs have alleged in their Original Petition that they are individuals residing in Rockwall County, Texas. *See* Plaintiffs' Original Petition at ¶ 2. Thus, for diversity purposes, Plaintiffs are citizens of Texas. Safeco Insurance Company of Indiana is a corporation organized under the laws of the State of Indiana, with its principal place of business in Boston, Massachusetts. For diversity purposes, Safeco is a citizen of Massachusetts and Indiana. Accordingly, there exists complete diversity of citizenship between Plaintiffs and Safeco.

B. AMOUNT IN CONTROVERSY

1. *Standards*

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff's complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiffs'

Original Petition that their claims exceed \$75,000.00. Plaintiffs specifically plead that they “seeks monetary relief over \$100,000.00.” Plaintiffs’ Original Petition at ¶ 1.

Therefore, removal of this action is proper under 28 U.S.C. § 1441(a). This is a civil action brought in state court and this Court has original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332(a). In addition, Plaintiffs’ citizenship is diverse from Safeco. Finally, as alleged in their petition, Plaintiffs seek to recover in excess of \$100,000.00 from Defendant. Therefore, the amount in controversy in this case exceeds \$75,000.00.

III.

CONSENT TO REMOVAL UNNECESSARY

Safeco is the only defendant named in Plaintiffs’ Petition; thus, no additional consent is needed for removal.

IV.

COMPLIANCE PROCEDURAL REQUIREMENTS

As required by Local Rule 81.1(a), filed concurrently with this Notice of Removal is a completed civil cover sheet, supplemental civil case cover sheet and a signed Certificate of Interested Persons that complies with LR 3.1(c). Additionally, the following exhibits are attached:

- **EXHIBIT A** Index of all documents filed in state court;
- **EXHIBIT B** Register of Actions in the state court action;
- **EXHIBIT C-1-C-3** A copy of each document filed in the state court action.

Pursuant to Section 28 U.S.C. §1446(d), Defendant will give written notice of filing of this Notice of Removal to all adverse parties promptly after the filing of same.

Pursuant to 28 U.S.C. §1446(d), Defendant will file a true and correct copy of this Notice of Removal with the District Clerk, 439th Judicial District, Rockwall County, Texas promptly after filing of same.

V.
REQUEST FOR RELIEF

Based on the foregoing, Defendant Safeco Insurance Company of Indiana respectfully requests that the above-captioned action now pending in the 439th Judicial District Court, Rockwall County, Texas, be removed to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

/s/ Mark D. Tillman

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**ATTORNEYS FOR DEFENDANT
SAFECO INSURANCE COMPANY OF
INDIANA**

CERTIFICATE OF SERVICE

In accordance with the FEDERAL RULES OF CIVIL PROCEDURE, on August 15, 2017, a true and correct copy of the above and foregoing instrument was served *via facsimile or electronic service* upon:

ATTORNEYS FOR PLAINTIFF

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/s/ Mark D. Tillman

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